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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 HOWIE SALETELE ALUALU,

14 Defendant.

CASE NO. CR19-0215JLR

ORDER GRANTING MOTION  
TO PROCEED WITH GUILTY  
PLEA HEARING BY VIDEO  
CONFERENCING

15 **I. INTRODUCTION**

16 Before the court is Defendant Howie Saletele Alualu's motion to proceed with his  
17 guilty plea by video conferencing. (Mot. (Dkt. # 26).) The court has considered the  
18 motion, Plaintiff United States of America's ("the Government") opposition (Resp. (Dkt.  
19 # 27)), the record, and the applicable law. Being fully advised, the court GRANTS Mr.  
20 Alualu's motion.

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## II. BACKGROUND

Mr. Alualu's trial was set for April 13, 2020. (*See* 11/26/19 Order (Dkt. # 17) at 2.) However, due to the public health emergency caused by the coronavirus disease 2019 ("COVID-19") pandemic, on March 17, 2020, the United States District Court for the Western District of Washington issued General Order No. 02-20. *See* General Order ("GO") No. 02-20 (Mar. 17, 2020). That order continued all criminal matters scheduled prior to June 1, 2020, pending further order of the court. (*See id.* at 2.) On that basis, the court granted the parties' joint motion to continue the April 13, 2020, trial date. (*See* 1st MTC (Dkt. # 21); 3/27/20 Order (Dkt. # 22).) The court further continued the trial date based on General Order No. 07-20, which continued all criminal matters another 30 days, and set Mr. Alualu's status hearing for July 1, 2020. *See* GO No. 07-20 (Apr. 13, 2020); (4/24/20 Order (Dkt. # 24)). This district subsequently issued General Order No. 08-20 on May 13, 2020, which continued criminal in-person hearings and trial dates until at least August 3, 2020. GO No. 08-20 (May 13, 2020).

In the meantime, the parties reached an agreement to resolve this case. (*See* Mot. at 1; Resp. at 2.) The parties' agreement requires Mr. Alualu to plead guilty as charged to the charge of Felon in Possession of a Firearm in exchange for the Government's agreement to recommend no more than the low end of the sentencing guidelines range. (*See* Resp. at 2.) Mr. Alualu now asks the court to set a plea hearing that the parties may attend remotely by video conference so that he can enter the plea contemplated by the parties' agreement. (*See* Mot. at 3.)

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### III. ANALYSIS

The Federal Rules of Criminal Procedure make no provision for a defendant to enter a guilty plea except while in open court. *See generally* Fed. R. Crim. P. Due to the COVID-19 pandemic and the public health emergency, Congress enacted the Coronavirus Aid, Relief, and Economic Safety Act (“CARES Act”), which provides that certain criminal proceedings may proceed by video teleconferencing during the COVID-19 national emergency, including a guilty plea in a felony case. *See* CARES Act § 15002. To do so, the Judicial Conference of the United States first must find that the COVID-19 emergency will materially affect the functioning of the federal courts generally or a particular court. *Id.* § 15002(b)(2)(A). It has done so. *See* Administrative Office of the United States Courts, Judiciary News, *Judiciary Authorizes Video/Audio Access During COVID-19 Pandemic* (Mar. 31, 2020), <https://www.uscourts.gov/news/2020/03/31/judiciary-authorizes-videoaudio-access-during-covid-19-pandemic>.

On March 30, 2020, Chief Judge Ricardo S. Martinez fulfilled the second requirement of the CARES Act for permitting guilty plea hearings via video teleconferencing when he entered a finding “that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure cannot be conducted in person without seriously jeopardizing public health and safety.” *See* GO No. 04-20 (Mar. 30, 2020) at 2; *see also* CARES Act § 15002(b)(2)(A).

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1 Third, the CARES Act requires that the district court in the particular case must  
2 find “for specific reasons that the plea . . . in that case cannot be further delayed without  
3 serious harm to the interests of justice.” *See* CARES Act § 15002(b)(2)(A); *see also* GO  
4 No. 04-20. Accordingly, the court finds that because Mr. Alualu and the Government  
5 have reached an agreement concerning his plea, the plea hearing in this case “cannot be  
6 further delayed without serious harm to the interests of justice.” *See* CARES Act  
7 § 15002(b)(2)(A). Absent intervention, Mr. Alualu would not be able to participate in a  
8 guilty plea hearing until at least August 3, 2020, *see* GO No. 08-20 at 2, despite having  
9 had his April 13, 2020, trial date stricken due to the COVID-19 emergency (*see* 3/27/20  
10 Order). Accordingly, the court GRANTS Mr. Alualu’s motion to proceed with his guilty  
11 plea hearing via remote means. The Government and Mr. Alualu request that the hearing  
12 be conducted via a video conference instead of merely via a teleconference. (*See* Mot. at  
13 2; Resp. at 4.) The court agrees and so ORDERS. The court further ORDERS that Mr.  
14 Alualu’s guilty plea hearing be conducted before a Magistrate Judge and that the Clerk  
15 set the video teleconference hearing as soon as is practicable.

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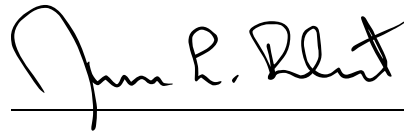
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**IV. CONCLUSION**

Based on the foregoing analysis, and within the specific parameters set forth above, the court GRANTS Mr. Alualu's motion to proceed with a guilty plea hearing via video conference before a Magistrate Judge (Dkt. # 26).

Dated this 2nd day of June, 2020.

A handwritten signature in black ink, appearing to read "James L. Robart", written over a horizontal line.

JAMES L. ROBART  
United States District Judge